Court No. 2

Civil Misc. Writ petition No. 729 of 2001

Sri J.C. Bhardwawaj ……. Petitioner

Vs

State of Uttaranchal and others …… Respondents.

……

Hon. P.C. Verma, J.
Hon. M.C. Jain, J.

This petition was filed by the petitioner seeking a writ of mandamus to command the respondents to pay interest at the rate of 18% on the withheld DCRG of Rs.50,637/- for the delayed period and balance of gratuity of Rs. 1781/- with interest thereon. Counter affidavit has been filed by the respondent nos. 4 and 5. A perusal of the same does not disclose any date on which for the first time the gratuity was paid to the petitioner. Statement has been made in para 4 of the counter affidavit that the petitioner is not entitled to any amount of gratuity claimed by the petitioner in this writ petition because whatever delay was caused, it was caused due to the financial irregularity committed by the petitioner himself and detected by the audit party, which has been removed by the petitioner and to be decided by the competent Authority in this behalf. The reason disclosed in the counter affidavit for the delay in payment of interest is not satisfactory. The Gratuity could not have been withheld for the financial irregularity alleged to have been committed by the petitioner during his service period. If there was any financial irregularity committed by the petitioner during his service period, that was subject matter of inquiry and regulation 351A and if anything was to be withheld, the petitioner's pension could have been withheld, and not gratuity. In our considered view, there was delay in payment of gratuity to the petitioner. Therefore, we issue a writ of mandamus directing the

respondents to pay interest on the delayed payment of gratuity @ 10% per annum. Interest including balance of gratuity shall be paid to the petitioner within one month from the date of production of the certified copy of this order.

The petition is disposed of in accordance with the aforesaid terms.

(M.C. Jain, J) **(P.C. Verma, J.)**

Dt. 2.7.2001

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